

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
TEXARKANA DIVISION

WILLIE MUNN

PLAINTIFF

v.

Civil No. 03-4074

SHERIFF JERRY CRANE, FRANK
McJUNKINS, MARK BURSE, and
JIM PARSON

DEFENDANTS

ORDER

Before the court is the application to proceed in forma pauperis (IFP) (Doc. 88) filed herein by the plaintiff, Willie Munn. Plaintiff's complaint was filed under 42 U.S.C. § 1983 against the defendants. (Doc. 1.) By order (Doc. 86) entered on August 24, 2005, this court adopted the report and recommendations (Doc. 85) of the United States Magistrate Judge, thus granting defendants' summary judgment motion and dismissing the case. The plaintiff did not object to the report and recommendations. The court determined that there was no genuine issue as to any material fact, and thus a grant of summary judgment was appropriate.

On September 7, 2005, plaintiff filed a notice of appeal (Doc. 87) and his application to proceed IFP on appeal (Doc. 88). From the application, it is found that plaintiff is unable to pay the filing fee for this appeal. *See* 28 U.S.C. § 1915(a)(1).

However, 28 U.S.C. § 1915(a)(3) provides that "[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." For the reasons stated in the report and recommendation as adopted by the court, it was found that no genuine issue of material fact existed, and thus the court granted defendants' motion for summary judgment. Therefore, this appeal is not taken in good faith. Accordingly, plaintiff's application

to proceed IFP on appeal should be and is hereby denied.

Plaintiff must pay the full filing fee of \$255.00 no later than October 14, 2005 or renew his application to proceed IFP with the United States Court of Appeals for the Eighth Circuit.

IT IS SO ORDERED this 14th day of September 2005.

/s/ Harry F. Barnes

HON. HARRY F. BARNES
UNITED STATES DISTRICT JUDGE